

### **REMARKS**

The foregoing amendments and remarks which follow are responsive to the Office Action dated November 30, 2007. In the Office Action, the Examiner rejected Claims 1, 2, 5-7, 11-14, 16, 18, and 19 under 35 U.S.C. § 103(a) as being unpatentable over Higbee (EP 0987616 A2) in view of Bidiville et al. (U.S. Patent No. 6,218,659 B1). Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Higbee in view of Bidiville et al., and further in view of Tada et al. (U.S. Patent No. 6,791,534). Claim 10 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Higbee in view of Bidiville et al., and further in view of Chait (U.S. Patent No. 5,486,845). Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Higbee in view of Bidiville et al., and further in view of Bullister (U.S. Patent NO. 5,751,275). Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Higbee in view of Bidiville et al., and further in view of Nmngani (U.S. Patent No. 5,541,621). The Examiner indicated that Claims 3, 4, and 9 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

### **Summary of Applicant's Response**

By this response, Applicant has amended Claims 3 and 9 to rewrite the allowable claims in independent form by incorporating the subject matter of Claim 1. In addition, Claims 5, 6, 8, 10-12, and 18-19 have been amended to depend from Claim 3. Furthermore, Applicant also amended Claims 3 and 9 to add the language "chamber contains electronic components; the second," which was previously included in Claim 1, but accidentally omitted in Applicant's response to the first Office Action.

### **Inconsistency in the Prosecution History**

In the preliminary amendment filed with the USPTO on October 12, 2004, Claim 1 reads, "[a]n electronic pointing or cursor control device comprising a first chamber and a second chamber, wherein: the two chambers are adjoined and separated by a fluid-tight separating wall; the first chamber contains electronic components; the second chamber comprises an aperture..."

In the response to the first Office Action filed with the USPTO on August 30, 2007, Claim 1 reads, “[a]n electronic pointing or cursor control device comprising a first chamber and a second chamber, wherein: the two chambers are adjoined and separated by a fluid-tight separating wall; the first chamber comprises an aperture...”

Applicant submits that the text “chamber contains electronic components; the second” was accidentally omitted in the response of August 30, 2007, and that reintroduction of this limitation does not cause any issues.

**Allowable Subject Matter**

The Examiner has identified in the Office Action that Claims 3, 4 and 9 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The Applicant submits that the above-noted amendments to the claims achieve these objectives, and as such, the application is now in condition for allowance.

**REQUEST FOR ALLOWANCE**

Applicant respectfully asserts that the stated objections to the claims have been overcome, and that the application is in condition for allowance. Should the Examiner have any suggestions for expediting allowance of the application, the Examiner is invited to contact Applicant’s representative at the telephone number listed below.

If any additional fee is required, please charge Deposit Account Number 19-4330.

Respectfully submitted,

Date: 2/29/08

By: 

Customer No.: 007663

Bruce B. Brunda  
Registration No. 28, 497  
STETINA BRUNDA GARRED & BRUCKER  
75 Enterprise, Suite 250  
Aliso Viejo, California 92656  
Telephone: (949) 855-1246  
Fax: (949) 855-6371